NATIONAL GUARD AND THE PRESIDENT

Colonel Hitchcock Says the Chief Executive Cannot Call Guardsmen Out.

SUBJECT TO HIS ORDERS

They Were Enlisted by the State for Service in the State and the National Government Has No Control Over Them Whatever -- Bill Drafted by the Colonel With a View United States.

Is the National Guard of the several states subject to the call of the president of the United States for active

service in case of war? In the present condition of affairs the above question has been so frequently propounded to me personally and is so much in evidence in the newspapers, that I beg an opportunity to answer it through the columns of The Tribune. In doing so I wish it clearly understood that my remarks are addressed to the legal merits of the question exclusive-ly. That the National Guard is composed of a body of noble patriotic young men, who would gladly respond to the call of the president in case of emergency, I do not for a moment doubt. They ought not and would not ask the question above suggested.

Nevertheless the proposition as a le-gal question remains, and I discuss it from that standpoint, with the purpose of correcting a grave misapprehension as to the relations of the Guard to the general government and a hope that in so doing the way may be paved for such remedial legislation on the part of congress and the several states as will put his splendid body of troops on a footing to be available for the needs of the general government in cases of emergency.

We have recently been formed with the views of Major Morrison, judge advocate general, United States army, who, following almost identically the views published a year of two ago by Lieutenant Colonel Tyler, judge advocate general, division National Guards of Pennsylvania, who holds that the National Guard is subject to the order of the president at all times. The arguments of both of these officers has gone astray from one common point, viz.: their fallure to distinguish the National Guard from the 'State Militia." Major Morrison quotes the act of congress which defines the militia be "every able bodied male citizen of the respective states between the ages of 18 and 45." The acts of assembly of Pennsylvania and most of the other states follows this definition.

THE NATIONAL GUARD.

The members of the National Guard, in the language of Major Morrison, are taken from "that great body of people -- the militia--from which the armies of the United States are made up." But so are the members of the fire companies of all our municipalities, the private military companies and the various semi-military societies. Are all these organizations subject to the orders of the president for active service in case of war, because forsooth their members belong to the militia? able-bodied citizen between the ges of 18 and 45 in the uniform of a ational Guardsman is no more subet to such military duty as a militiaman, than he would be in citizen clothes; no more than is a fireman or What is the National Guard?

It is a body of men serving under a contract of enlistment under certain state laws which prescribe their term of service and the character and limits of their duty. The terms of this contract and the character of the service are defined, prescribed and limited by the act of assembly under which the Guard is created and organized. The act of the general assembly of Pennsylvania of 13th April, 1887, under which the present National Guard of Pennsylvania exists, prescribes in section 67 when this body of troops can be called out for active service.: "When an invasion of or insurrection in the state is made or threatened * * *

This whole act must be read into the contract of enlistment of every man in the National Guard of Pennsylvania. Nothing can be added to it or taken without violation of the contract, which would be abborrent to one of the most vital provisions of our organic law, viz.: the impairment of a contract. The term of enlistment, as provided by the above act, is three No one would for a moment claim that the state could by act of assembly, or in any other manner in-crease the length of this term, and hold the men against their consent. This would be a despotic violation of their contract of enlistment. If the contract cannot be violated in one direction, how can it be in another? It would be no more an invasion of the contract to arbitrarily enlarge the term than to enlarge the scope and charac-

THERE IS NO LAW.

But where is the law which enlarges the scope of this service from state to national, conceding for the sake of the argument that it can be done? Taking Pennsylvania as an example for all. the answer must be there is none. State legislation must necessarily be limited by state boundaries. The only statutes of the United States, the Act of 1795 and its various amendments, all apply exclusively to the militia. No man enlists in the militia. He is a member of it by virtue of his citizenship. He is bound to its service, unless exempted by law, whether he will or no. There is not a syllable upon our statute books authorizing the president to assume command of these various bodies of state volunteers in cases of emergency. There has never been an

Humiliating

Of itching, burning, bleeding, scaly skin and scalp humors is instantly relieved by a warm bath with CUTICURA SOAP, a single application of CUTICURA (cintment), the great skin cure, and a full dose of CUTICURA RESOLVENT, greatest of blood

REMEDIES speedily, permanently, and economically cure, when all else fails. Porran Davo and Cuxu. Cour. Sole Prapt., Resten. PIMPLY FACES Putted and Beautified by instance in the history of the government where this has been done.

There have been many times when the emergency would have justified the doing of it if it had been possible. In the War of 1812 the Canadian campaign was entered upon with the ex-press agreement upon the part of New York and other border states that the state troops would co-operate with the army of the United States. The government did not assume either to command or control these troops, although the situation was one of absolute desperation in the end. For when the crisis came not a man of the state troops would cross the border. The battle of Lewiston was fought under the very eyes of 5,000 New York state to Creating a National Guard of the troops who, though not a mile away little army to be slaughtered, and the campaign turned into a disastrous defeat, rather than go beyond the boundary of their state.

Again during the dark days of the rebellion, although a number of state organizations volunteered and were accepted for short periods of service, there was no instance where the government assumed the power to order them into the field. Is it reasonable to suppose that during the many crises which then occurred, this power would not have been exercised if it had existed? It is clear that the present war department does not consider the National Guard subject to its orders, for it is quoted as saying these troops would be invited to assist in case they

CONDITIONS NOT RECOGNIZED. The trouble with Major Morrison's

construction of the law and the decisions of the courts quoted by him grow out of a failure to recognize the conditions following the passage of the Act of 1795. A perusal of that act shows that it contemplated the organization of the entire militia forces of the country. Every able-bodied man between 18 and 45 years of age, not exempt by law, was a member of some grade of this force, and could be instantly ordered to duty. "Muster days," as they were called, were held twice a year, at which every man was required to report, with his own uniform and gun or other weapon, and ammunition, all provided by himself. This organization was more or less efficiently maintained up to 1850.

The writer well remembers attending such musters back in the 40 decade. They were then mere burlesques, and very soon the militia ceased to have an organized existence. Contrary to the purpose of the Act of 1795, and recognizing that it was practically dead, the act of the general assembly of Pennsylvania of 1887, above quoted, speaks of the militia as the enrolled-not or ganized-militia.

It being now clear that the National Guard, as at present organized, is not subject to the call of the national government, the important question arises, how can this defect in its organization be remedied? The answer to this question is my justification for writing this article.

The constitution of the United States gives power to congress (Art. I., Sec. 8, pl. 16) "to provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress." remedy lies in the exercise of this power. The militia, like our citizenship, is first national and then state. The National Guard should be so organized. Its contract of enlistment should recognize the paramount right of the nation, in case of war, for at least a certain definite term of service. whilst in time of peace it should be as at present, under the control and instruction of the state.

BILL HE PROPOSES.

I have made a rough draft of a bill which is appended which embodies, I think, all that is necessary to accomplish this purpose. It will be noticed that this bill puts the entire cost of maintenance of the guard when so or \$3.50 per day; non-commissioned officers garized upon the national government of the regimental staff, \$3.00 per day; garized upon the national government. This would be an inducement to the states to reorganize the guard to conform to this law. It would save Pennsylvania \$300,000 per year. tional government is of right, and should be in fact, the head of all military power. This act would make it so. The value of this would be ample

compensation for its annual cost. Again, the cost would be much easier borne, when placed upon the national government . With the states the money must be raised necessarily by direct taxation-always the most burdenome. With the general government it is raised by customs revenues and indirect taxation. Of course, this feature of the bill may readily be modified, so that the cost shall be equally having authority to grant such excuses divided or otherwise as may be deemed and that after receipt of such order o F. L. Hitchcock.

TEXT OF THE ACT.

An Act to provide for organizing, arming and disciplining a portion of the Militia to be known as the Active Mil-itia, and to be called the National

Guard of the United States. Section 1. Be it enacted, etc., That upon the passage of this act the president shall proceed to call forth, organ-ize, arm. equip and discipline a portion of the militia, not to exceed in the aggregate of all arms 200,000 men, and shall apportion the same between the several ates according to their ratio of the enrolled militia liable to military duty un-der existing laws. Said troops shall be known as the Active Militia and shall be called the National Guard of the

United States. Sec. 2. The president shall opportion the number of each arm of the service of the several state quotas; and shall prescribe their organization, arms and equipment, and the system of drill, discipline and instruction to be observed which shall correspond as nearly as may be with that of the regular army.

Sec. 3. The Active Militia hereby or-ganized shall be composed of men who shall enlist in the service of their re-spective states and the United States for a period of not less than three years. They shall at all times be subject to he orders of their officers, and shall be subject to active service whenever called upon by the president, for the national defence, in case of war, insurrection or invasion, for a period of not to exceed

Sec. 4. The National Guard may be orance with the requirements of the president as to numbers not less than the allotment as herein provided, and as to organization, system of tactics, drill discipline and instruction as shall be pre-scribed by the president as hereinbefore provided. Said guard so organized, ex-cept when called into active service by the president for the national defence, shall be subject to the laws of their re-spective states, which shall be respon-ible for the drill discipline and instruc-

ganize its proper quota of the National Guard as required by this bill, or fail or refuse to accept the provisions of this tion of the same.
Sec. 5. The president may require the Guard to be assembled in their respec-tive s ates, in camps of instruction, or for marching and camping tours not of-two years after a refusal shall be deemed tener than once a year, and for periods an abandonment of its right to appoint not exceeding twenty days, and when so the officers of the militia and the au-

assembled transportation to and from the thority of training the same, and the same shall be furnished with subsistence president shall proceed to organize the proper quota of the National Guard aland proper camping equippage. also mobilize the lotted to such state, commission its ofluards of the several states supply parts thereof as he may desire for pur rms, ammunition, and all necessary supposes of instruction, inspection, parades, maneuvers and reviews, not, however, plies; he shall provide for their instruc-tion and training, and in all respects said Guard shall be upon the same footmaneuvers and reviews, not, requiring of any portion of the Guard ing as other portions of the National Guard under the provisions of this act more than the twenty days' year, as hereinbefore provided. When so The National Guard organized under the provisions of this section shall be exclusively United States troops, and shall be assembled by the president, or by the state in pursuance of prescribed methods instruction, the officers shan receive foverned by the laws, regulations and isages of the regular army in time of as compensation the same pay per diem and allowances as officers of like rank ing the regular army, and enlisted men shall be paid as follows, viz: Non-compeace. The president shall provide the ame with suitable armories and means for the preservation and care of govmissioned officers of the general staff, rnment property in its hands. He shall prescribe the system of drill and times and duration of annual encampments or first sergeants, \$2.50 per day; sergeants, \$2.00 per day; corporals, \$1.75 per day; marching tours, for instruction, parades, reviews, etc., not to exceed twenty days privates, \$1.50 per day.

When the Guard of different states or portions thereof shall be so mobilized for n any one year, and when on such tours of duty, the officers and men shall be paid the same as other portions of the Guard, as provided in this act. The Guard so organized shall be callsted for irposes of instruction, they shall be under the command of the president, who may detail an officer of proper rank from the regular army to their command. ive years, and shall be subject to active duty when called out for the Na-tional defense the same as other por-Sec. 6. Military duty shall require the sttendance of officers, non-commissioned officers, musicians and privates on all occasions of drills, parades, reviews, intions of this act.

MILLINERY DEPARTMENT: SECOND FLOOR.

encampments or marches.

tours of duty, and active service ordered

by the commanding officer of the com

notice to appear, and while on such duty

or going to and returning from the same, obedience shall be rendered to all rules.

regulations, usages, customs, and requirements of the army of the United

States and of the state wherein the sol-

Sec. 7. On enlistment every man shall

ake an oath which may be administered

by any commissioned officer of the state

or of the United States, to support the

constitution of the United States and of their respective state; faithfully dis-

charge his duties as a soldier of the Na-

tional Guard of the United States, as prescribed in Section 6 of this act.

Sec. 8. All expenses of organizing, arming, equipping and instructing the National Guard hereby created shall be paid

out of the treasury of the United States. And when any state in pursuance of this

militia to meet the requirements thereof, or shall organize its quota of the Na-

tional Guard in accordance therewith

and by act of assembly shall accept the

provision of this act, and so certify to

he president, the latter shall proceed to

inspect said militia, and if the sam shall be found equal to the require

standard of the National Guard, the same shall be accepted as a part thereof, and

such state shall be reimbursed for the

cost of the current years' maintenance or if newly organized the cost thereof

and thereafter, year by year upon a sat-isfactory inspection of said Guard, the

ost of maintenance thereof shall be re

mbursed to such states. Sec. 9. The president shall prescribe

the arms, accoutrements, equipments and

camp and garrison equippage and other supplies of the National Guard and the

mmunition for the same, which shall be supplied upon proper requisition from the governors of the several states. Such

arms, accourrements, equipments and other property so supplied shall remain the property of the United States and

shall be carried on vouchers by the proper commanding officers of companies

battaions, etc., who shall account for the same through their proper superior of-ficers to the government of the United

States. Sec. 10. Should any state refuse to or-

ct shall reorganize its present active

dier shall be located.

for by the by-laws of the company,

Sec. 11. The National Guard created by his act when duly sworn in inaccordance with the provisions of this act shall be deemed to have been duly mustered into pany, regiment, battalion, brigade, divis-ion, the governor of the state or the presthe United States service, and when called into active service as herein provided shall be governed by the laws, ident of the United States, or provided usages and customs applicable to the regular army of the United States. less excused therefrom by the officers

IN FINE HEALTH.

So Writes Mrs. E. E. Oliver, of Stuebner, Texas.

"Four months ago I was taken with flowing, which left me with a cough which lasted eighteen days. During that time I could not lie down at all on account of smothering feelings During my menses I nearly died with pain in my back, hips and thighs. I had nervous spells at the least exertion, so that I could hardly speak. My eet and hands were cold all the time. I had spells with my heart; at times it would beat so fast that you could scarcely count the beats, and then it would flutter. I was tired all the time and had no appetite. I took medicine from our family doctor, but it did me no good. Now by the use of your most wonderful medicine I am a well woman I had given up all hope of ever getting well again, when I chanced to see one of your advertisements. I wrote to you, you advised Pe-ru-na, and I have taken \$10 worth in all. I am now in fine health, for which blessing I thank you. I was a near wreck when I began to take your medicine, as I had gone from 124 to 100 pounds, but now I am back to 117 and feel better than I have for years. A thousand thanks to you." "Health and Beauty," a book devoted to the catarrh peculiar to women, will

ru-na Drug Manufacturing Company, BUGGY WAS OVERTURNED.

be sent free to women only by The Pe-

Car Tracks Causes a Spill Near the Post Office. A buggy in which George Dunn and John Brown were seated was overturned at the corner of Linden street Washington avenue Saturday. The accident was occasioned by the wheels striking sideways and with

considerable force against the car Both men were slightly bruised. The horse, a spirited animal, was stopped near the scene by Detective

MRS. KLUMP NOT FORGOTTON. ier Busband's Death Brings \$50

The firm of Reiling, David & Schoen, it whose silk mill now building in he Tenth ward Joachim Klump met his death ten days ago, has remembered the latter's widow and children. Secretary Atherton on Friday received from the firm a check for \$50 for Mrs. Klump and her children. The accom-

panying letter stated that the chil-dren will be given work in the factory

is soon as they have reached the legal Klump's death resulted from a fall of orty feet from a scaffold. He was taken to his home on the South Side, but ived only seven hours. Of his five children the oldest is a boy 15 years of age. Klump was employed by Peter Stipp, the contractor, who is building

DUCATIONAL CLASSES OF Y. M. C. A. Programme That Has Been Arranged for Tuesday Evening.

The educational classes of the Young Women's Christian association have planned an interesting musical and literary programme for Tuesday evening, Special selections will be given by repesentatives from the elementary and enmanship classes; special features by the German, French and Chautauqua circle, indicating the work which is being done in the class rooms, such as German poems, French dialogues,

An exhibition of the work done in the penmanship class will be ready for inspection. The programme promises o be one of interest.

THEATRICAL ATTRACTIONS.

Sawtelle Dramatic Company. This evening at the Academy of Music e Sawtelle Dramatic company will begin week's engagement by the production of "On the Hudson." The prog for the remainder of the week is; day matinee, "Streets of New York; Tuesday night, "Captain's Mate;" Wed-nesday matince, "Rosedale, or the Rifle Ball;" Wednesday night, "Maine and Georgia:" Thursday matinee, "Under the British Law," Thursday night, "Around the World in Eighty Days," Friday Mat-"Around the World in Eighty Days;" Saturday matinee, "Maine and Georgia;" Saturday night, "True as Steel." The company is a strong one and is headed by Miss Jessie Sawtelle. It

A Double Show. The Flynn and Sheridan Big Sensation company, which begins a three days' en-gagement at Music hall this afternoon really consists of two companies, one composed of white and the other of Creole artists. Among the artists who will appear are Ada Henry, queen of bur-lesque; Hughes and Dillon, the world's greatest dancers; Nina and Vani, in a novel act; Marion and Pearl, in choice selections; Ruth De Shon, the charming cubrette; a grand song and dance tournament by ten beautiful Creole maidens; the one Golden Gate quartette, Afro-American comedians and dancers; Miss May Bohee and a host of others. Two bright sparkling comedies, a chorus of twenty white ladies and fifteen Creole saldens. Matinees Monday and Wednes-

"The Old Cont.

the United States navy, which is an-nounced for its first presentation in this city at the Lyceum Tuesday, March 31.

************************************ REXFORD'S.

REXFORD'S.

Stupendous Sale of China

Jonas Long's Sons

announce their

Annual Opening of Spring Millinery on

Thursday, March Thirty-first, Friday and

headgear, and with this opening, Paris comes to Scranton-an event

in itself. But the bon marche of Paris is no longer the bon marche

of the world, for American culture in design and creation vies with

the French in creative genius. Thus in this brilliant display may

viewing, planning, thinking conceiving and preparing for this event.

Our judgment is that he has been successful. We know yours

will be equally so. We can certainly promise the greatest profu-

sion of fashionable Hats and bonnets that this city has ever seen.

Jonas Long's Sons.

Paris comes to New York with exquisite creations in women's

THE EXQUISITE CREATIONS OF THE LEADING PARIS MODISTES.
THE CHARMING PRODUCTIONS OF THE BEST NEW YORK MILLINERS.
THE EXCLUSIVE DESIGNS FROM OUR OWN WORKSHOPS IN TWO CITIES.

For months our Millinery Chief-Mr. Edward Long-has been

Saturday, April 1st and 2nd.

We believe it to be worthy of us—and of you.

Our own designs are shown beside those of the world's best-and well they honor their position.

It is Scranton and Wilkes-Barre versus the world—judgment lies with you.

E HAVE ON HAND some 5000 pieces of fine China-all that is now left of our once immense stock. We are not going to keep China any more. Have been selling it off little by little at cost for a month or so.

We want the room it occupies for Pictures now-and we are going to have it.

Thus tomorrow we inaugurate a sale of China the like of which Scranton never saw before. We will sell to wholesalers at less than they can manufacture China —we will sell to retailers at less than they ever bought before-we will sell to anybody at any price to get rid of it.

That's the whole story in a nut-shell. Here are a few instances of the selling -the prices remain good until the items are sold. The quantity is limited in each instance—the early shopper catches the bargains.

Real china cups and saucers that Real china tea sets that sold for \$9, were 25 and 35 cents. Sale 13c Three decorations — handsome Three decorations - handsome shales, all underglazed. \$4.39 13c Sale price is Thirty-one fancy decorated Cake Plates that sold for 29 cents. On sale now for.... A dozen or so glass syrup dips with silver nickel tops. Were 20 cents. Sale price...... 12c 12c 12c Ten-piece toilet set-imported ware-Ment platters-choice of any handsome decorations. The regular price is \$5.00. Just two left \$1.98 which will sell at \$1.98 5c Choice of glass celery and pickle trays 12-piece toilet set-rich hand decora-tions-finest of ware. Regular price was \$10.00 Price now \$4.48 that sold for 19 and 25 cents, now 4c Jardinicras that sold for 39 cents. Sale price 15c Lemonade sets with tray that sold for \$1.75. Sale price is. about twenty-five oyster and bowls that sold for 15 cents. Sale price now 79c Delf placques—a dozen design imported, that sold for 39 cents. Now Odd lot of china plate that

Rexford's, 303 Lacka. Ave.

The comedy is said to be patterned after and Rice Comedy company, including the German model, but is original in its Frederic Bond, John F. Ward, John B. conception, treatment and development. Maher, Heien Reimer, Ma and it will be interpreted by the Smyth others equally well known. Maher, Helen Reimer, May Vokes and

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price

"The Old Coat" is the title of Smyth and Rice's latest comic success from the pen of Lieutenant W. H. Aliderdice, of